

### **REMARKS**

Claims 1-19 are now pending in the application. The amendment to Claim 13 addresses mere informalities and the claim is commensurate with its scope as originally filed, and the amendment should not be construed as limiting the scope of this claim.

Claims 1, 3, 6, 13, 18 and 19 have been amended to more particularly point out and distinctly claim the invention. Support for the following amendments is found, for example, in Applicant's specification: Claims 1, 18, and 19 at Paragraphs 22 and 23 (page 6) and Claim 3 at Paragraphs 19 and 20 (page 5), and Claim 6 at Paragraph 4 (page 2) and Paragraph 21 (page 5 bridging page 6).

As such, Applicant requests entry of the amendments in Claims 1, 3, 6, 13, 18 and 19. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

### **REJECTION UNDER 35 U.S.C. § 112**

Claims 1-19 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly not disclosing the best mode contemplated by the inventor. This rejection is respectfully traversed.

The best mode requirement is a separate and distinct requirement from enablement. *In re Newton*, 163 U.S.P.Q. 34 (CCPA 1969); MPEP 2165.02. MPEP 2165.03 states that "the examiner should assume that the best mode is disclosed in the application, unless evidence is presented that is inconsistent with that assumption. It is extremely rare that a best mode rejection properly would be made in *ex parte* prosecution. The information that is necessary to form the basis for a rejection based on the failure to set forth the best mode is rarely accessible to the examiner", but rather

is the type of information that might be uncovered during litigation, discovery during interference practice, and the like. The MPEP goes on to cite *Chemcast Corp. v Arco Industries*, 16 U.S.P.Q.2d 1033 (Fed. Cir. 1990), where the Federal Circuit lays out a two-component analysis for determining best mode. The first prong of the inquiry is subjective, because it focuses on the inventor's state of mind. "Unless the examiner has evidence that the inventors had information in their possession (1) at the time the application was filed (2) that a mode was considered to be better than any others by the inventors, there is no reason to address the second component and there is no proper basis for a best mode rejection." (*Emphasis added*). MPEP 2165.03 As such, the Examiner has presented no evidence in the present case that the inventor in the present application had in his possession at the time of filing a mode that was considered to be better than any others by the inventor. Here, Applicant submits that the application sets forth the best mode of practicing the invention that the inventor had in his possession at the time of filing, and that the Examiner's rejection of the claims is wholly improper and unfounded.

Applicant assumes that the Examiner intended to reject Claims 1-19 under 35 U.S.C. § 112, first paragraph for lack of enablement. Applicant likewise traverses this rejection, if this was the rejection that the Examiner had intended. Applicant submits that the present specification enables one of skill in the art to make and use the present invention, as claimed. The Examiner expressed concern that the present invention does not provide information of how the thrust fingers (5) move arm (8). Applicant submits that Paragraphs 19, 22 through 24, as well as Figures 1, 2, and 4 provide sufficient information to enable one of skill the art to make and use the invention as

claimed. For example, Paragraph 22 addresses the movement of arm 8, by stating that the finger 5 acts upon the end of the arm 8 opposite to the vertex 9. The finger 5 is arranged to push in a direction counter to the direction of the spring 17. As finger 5 pushes upon arm 8, it drives arm 8 to rotate about the articulation consisting of blade 10 at the vertex 9. This is also shown in Figures 1, 2, and 4. Thus, since the spring 17 has a downward force on arm 8, the finger 5 pushes arm 8 upwards, and hence as can be seen on the left side of Figure 1 that arm 8 raises and rotates in a counter-clockwise direction, and on the right side of Figure 1 arm 8 rotates in a clockwise direction.

Paragraph 23 specifies that the rotating motion of arm 8 causes an extension of arm 6, because flexible blades 10 and 12 (as well as blade 16), cause an extension of the distance between the blade 10 and the piece being supported 14. The amount of extension is described as a ratio of the distance between the blades to the length of arm 8. Paragraph 19 indicates that the curvature of blade 10 provides the rotational degree of freedom of the arm 8 in the plane of lever 6. Thus, Applicant submits that the written description in the application as filed does enable Claims 1-19, and respectfully requests that the Examiner withdraw the rejection under 35 U.S.C. §112.

#### **REJECTION UNDER 35 U.S.C. § 102**

Claims 1-19 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Bailly et al. (FR 2,773,890). This rejection is respectfully traversed.

The principles by which the present invention operates involve two arms forming a triangular lever that are connected together at a vertex. The arms of the lever are preferably articulated to a support base at this vertex. A first arm of the lever is extendable and connected to the member to be supported. A second arm is capable of

rotating about a pivot point corresponding to the articulation point at the vertex. The second arm is lifted and displaced by an adjustment means, which provides pivoting and rotation of the second arm at the pivot point (vertex of the two arms), thus extending the first arm according to the amount of rotation of the second arm. The second arm is not extendable in length, it merely rotates.

The present invention provides an improvement over the apparatus disclosed in the Bailly reference. In Figure 3 of Bailly, each arm 30 is attached to the support structure (16) at both ends and each arm (30) is extendable in length (see *e.g.*, Bailly at page 14 lines 10-14). In contrast to the present invention, Bailly discloses extending the second arm, rather than the first arm. Thus, in accordance with the principles of the present invention, the rotation of the second arm provides a lengthening of the first arm, and the support structure is simpler and more streamlined, and permits eliminating the need for the linking elements (28) required in Bailly, *inter alia*. Independent Claims 1, 18, and 19 have been amended to more specifically clarify these aspects of the present invention.

For example, Bailly does not disclose a support device comprising two triangular levers, where each lever is articulated on the support base at its respective vertex, and where a first one of two arms of each lever is extendable and a second one of the two arms is rotatable about a flexible blade member connected between said support base and said second one of the two arms. Nor does Bailly disclose a support device where a distance between said flexible blade member and the member to be supported is adjusted based on rotation of the second one of the two arms about the flexible blade member, as is recited in Claim 1. As such, Bailly does not disclose or anticipate the

invention recited in Claim 1, nor does it anticipate Claims 2 – 17, which depend therefrom.

Nor does Bailly teach or disclose the limitations recited in Claim 18, more particularly, a support device where each lever has at least a first arm and a second arm substantially disposed in a triangle and connected together at a selected vertex of the triangle, where each of the levers are articulated on the support at a respective vertex. Further, the first arm is selectively extendable. An adjuster extends from the support base and allows the second arm of each of the levers to rotate along a selected plane. The second arm rotates about a point where the respective lever is articulated on the support base. As such, the first arm extends based on rotation of the second arm about the respective point. Bailly does not teach or anticipate Claim 18.

Likewise, Bailly does not disclose the limitations of Claim 19. Claim 19 recites an apparatus having at least three devices where each device comprises a plurality of levers. Bailly has no disclosure of three devices that each comprise a plurality of levers. Nor does Bailly disclose that each of the levers has a first member and a second member substantially oriented in a triangular manner and substantially connected together at a selected vertex of the triangle. As such, Bailly does not disclose, teach, or render the invention of Claim 19 anticipated. Accordingly, Applicant respectfully requests that the Examiner reconsider the rejections of Claims 1 -19, and requests allowance thereof.

### CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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